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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,905	07/10/2006	Isto Heiskanen	0696-0226PUS1	3871
2292 7590 01/07/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER THOMPSON, CAMIE S				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
01/07/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/562,905

Applicant(s)

HEISKANEN ET AL.

Examiner

Camie S. Thompson

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 9/28/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-13 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-10, 12-13, 18-32 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed September 28, 2009 are acknowledged.
2. Examiner acknowledges amended claims 1, 18 and 29.
3. Examiner acknowledges cancelled claims 2-3 and 14-17.
4. Examiner acknowledges newly added claims 30-32.
5. The rejection of claim 29 under 35 U.S.C. 112, second paragraph is overcome by applicant's amendment.
6. The rejection of claims 1-10 and 12-19 under 35 U.S.C. 102(e) as being anticipated by Rohlf et al., U.S. Patent Number 6,489,040 is overcome by applicant's amendment.
7. The rejection of claims 1-19 under 35 U.S.C. 103(a) as being unpatentable over Penttinen et al., U.S. Pre Grant Publication 2006/0280941 in view of Rohlf et al., U.S. Patent Number 6,489,040 is overcome by applicant's amendment.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4-10, 12-13 and 18-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubinette et al., U.S. Patent Number 7,628,885 in view of Rohlf et al., U.S. Patent Number 6,489,040.

Hubinette discloses paperboard for packages composed of one or more layers wherein the paperboard is suitable for co-sterilization of the package and its contents (see column 1, lines 5-19). Additionally, the reference discloses that the paperboard comprises an adequate amount of sizing agent such as AKD and small amounts of alum are also added. It is disclosed in column 4, lines 20-24 of the Hubinette reference that the sterilization technique comprises a step involving water vapor. Hubinette also discloses that the hydrophobic size is used in the amount of 2 to 4 kg/t dry fibers (see column 4, lines 4-9). The Hubinette reference discloses that the package is used for different kinds of packages including food packages (see column 1, lines 5-19). Hubinette also discloses that ASA (alkenyl succinic anhydride) can be used as a sizing agent (see column 2). Hubinette does not disclose a wet-strength size and the weight ratio of the hydrophobic size to the aluminum compound.

Rohlf discloses a board comprising paper cover sheets that have a size such as alkenyl succinic anhydride (ASA) (see column 3, lines 50-65). Additionally, the reference discloses that the cover sheets comprise a wet-strength size such as polyamide epichlorohydrin resin (see column 3, lines 66-67). It is disclosed in column 5, lines 49-52 that the wet strength resin is added in the amount of 1 to 25 pounds per ton (.1-.25 kg/ton). It is disclosed in column 6, lines 15-16 that alum is added in the amount of 0 to 30 pounds per ton and ASA is added in the amount of 1 to 25 pounds per ton (see reference claim 1). The reference discloses in column 7, lines 35-68 that a polymer material is added to board material. It is disclosed in column 4, lines 45-64 that the board is in a fibrous envelope. Rohlf discloses that the board is heated under pressure at temperatures of about 150-200 degrees for about 45 minutes. Column 6, lines 23-25 discloses that the assembled sheet is calendared. Rohlf discloses the use of a paper board as does

Hubinette. Both Rohlf and Hubinette disclose paperboard that has one or more layers and is treated with a hydrophobic size and an aluminum compound. Rohlf and Hubinette are analogous art. It is disclosed in Rohlf in column 3 and column 4 that the addition of PAEE prevents the loss of physical properties such as tensile strength. Therefore, it would have been obvious to one of ordinary skill in the art to use the sizing composition in the Rohlf reference comprising the PAEE size is added in order to improve the wet strength of the fibrous material and prevent water penetration to the fiber substrate.

Allowable Subject Matter

10. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant claims a package as defined in claim 1 wherein the packaging material comprising the following order: a polymer heat-sealing layer, a white-pigmented polymer layer, a polymer layer containing black pigment, a treated fiber substrate, one or more polymer oxygen-barrier layers, a binder layer a grey-pigmented polymer light shield layer and a polymer heat-seal layer. The closest prior art, Hubinette et al., U.S. Patent Number 7,628,885, discloses paperboard for packages comprised of one or more layers wherein the paperboard is treated with a hydrophobic size and an aluminum compound. Hubinette fails to teach or disclose a package wherein the one or more layers are defined in the following order: a polymer heat-sealing layer, a white-pigmented polymer layer, a polymer layer containing black pigment, a treated fiber substrate, one or more polymer oxygen-barrier layers, a binder layer a grey-pigmented polymer light shield layer and a polymer heat-seal layer.

Response to Arguments

11. Applicant's arguments with respect to the present claims have been considered but are moot in view of the new ground(s) of rejection. Examiner has rejected the present claims using the Rohlf reference as a secondary reference. Rohlf discloses a paperboard fibrous substrate that is treated with a hydrophobic size and an aluminum compound. Hubinette discloses a paperboard fibrous substrate that is treated with a hydrophobic size and an aluminum compound. Hubinette's package is sterilized and has contents. Rohlf and Hubinette are analogous art. The addition of a wet-strength size is used to improve resistance of water penetration to the fibrous substrate. The combination is not without motivation.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camie S. Thompson whose telephone number is 571-272-1530. The examiner can normally be reached on Monday-Friday 8:00 am - 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit 1794

/Camie S Thompson/
Examiner, Art Unit 1794